

Response by Jim Fournier
Co-Founder & President, Planetnetwork NGO, Inc.
To [Docket No. 110524296-1289-02] Notice of Inquiry
Models for a Governance Structure for the National Strategy for Trusted Identities in
Cyberspace

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Inquiries about this response should be directed to
Jim Fournier
jim@planetnetwork.net

As a co-founder of an organization that helped to convene the first conversation around digital identity and civil society starting in July 1999, I am delighted to see this initiative. In addition to co-founding Planetnetwork, I was also a founding participant in the WebCabal following the seminal Planetnetwork conference in May 2000, which became LinkTank in 2002, and commissioned the Augmented Social Network White Paper in 2003.

I believe that both the spirit and content of the NSTIC proposal is exceedingly insightful and touches on the many of the key points.

The challenge will be to formulate a process that can live up to and deliver on the promise, and do so in a manner that genuinely convenes and stewards a process of stakeholder engagement that establishes trust.

However, I also have a few serious reservations, and see potential pitfalls that I would like to indentify so that we can avoid them.

First, when the term *Public-Private Initiative* is invoked, and especially when the aspiration is explicitly to hand the process over to the “private sector”, it raises a serious question: Where is Civil Society in that model? Where is the third element in society, which is really made up of a number of different types of entities, including not only non-profit corporations, but also academic and spiritual institutions?

Governance, and the need for governance, will not simply go away if the whole thing is simply handed over to large corporations. In fact, for many stakeholders it is trust itself that will go away if that is allowed to happen, as is often implied by that phrase.

Trust, is an emergent property, not something that can be generated through the application of a word, and indeed in our day and age of rampant cynicism, the heavy-handed application of the word Trust itself might be enough to insure its absence, or the

unintended invocation of its opposite, *distrust*. The best we can hope for is the creation of Accountability Frameworks in which parties make assertions of their responsibilities, as well as rights, and are bound by agreed standards subject to a process of mutual stakeholder governance – quite the opposite of today’s “privacy policies” or the lengthy impenetrable legalese found in “software license agreements”. Both of these are examples of where a dysfunctional corporate process devoid of true stakeholder engagement has landed on-line society to-date.

The promise of this initiative is that because it is convened by a federal agency, the process has standing. If both the corporate entities that usually ignore or renounce any process that they cannot completely dominate, and the civil rights and privacy community that often demonizes and fails to come to the table with corporate interests, and everyone in between, can actually enter into a well facilitated process, there is the potential to get it right and create a truly functional process. But the role of facilitation cannot be abdicated before it begins. There is a role for the convening entity to set that process in motion. It depends completely on the initial conditions. Simply naming a steering committee, giving that body governance authority, putting stakeholders on it and letting them duke it out by majority vote is a recipe for failure.

The first huge question in the vision is whether the Steering Committee is itself a decision-making entity, or whether it is some sort of facilitating entity or process to surface all stakeholder interests and help to facilitate processes which can hold the inevitable dialectic between the interest of innumerable parties and help them to work toward a process of collaborative design to arrive at a working system.

This is not easy, but it is also not impossible. There is a great deal of knowledge and a decade long process that has led the digital identify community to where it is today. If this proposal can harness that already existing process and steward it, for a comparatively small application of resources an unbelievably positive outcome is possible.

However, this will not happen by simply inviting the large corporate players to carve up the space in a vacuum, as is unfortunately implied by some of the language used to describe the aspiration of the initiative as currently framed. So much of what is outlined points to a much higher outcome, we hope that more innovative and creative path prevails.